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information over a submitter's objection, it shall provide the submitter with written notice containing the following:

(i) A description or copy of the information to be disclosed;

(ii) The reasons why the submitter's disclosure objections were not sustained; and

(iii) A specific disclosure date, which shall be a reasonable number of days after the notice of intent to disclose has been mailed to the submitter.

(2) At the same time that notice of intent to disclose is given to a submitter, the Board shall notify the requester accordingly.

(f) *Notice of lawsuit.* (1) Whenever an FOIA requester brings legal action seeking to compel disclosure of confidential commercial information, the Board shall promptly notify the submitter.

(2) Whenever a submitter brings legal action seeking to prevent disclosure of confidential commercial information, the Board shall promptly notify the requester.

(g) *Exception to notice requirement.* The notice requirements of this section shall not apply if:

(1) The Board determines that the information requested should not be disclosed; or

(2) The information already has been published or otherwise officially made available to the public; or

(3) Disclosure of the information is required by law (other than 5 U.S.C. 552); or

(4) Disclosure is required by a Board rule that:

(i) Was adopted pursuant to notice and public comment;

(ii) Specifies narrow classes of records submitted to the Board that are to be released; and

(iii) Provides in exceptional circumstances for notice when the submitter provides written justification, at the time the information is submitted or within a reasonable time thereafter, that disclosure of the information could reasonably be expected to cause substantial competitive harm; or

(5) The information requested was not designated by the submitter as exempt from disclosure, when the submitter had an opportunity to do so at

the time of submission or within a reasonable time thereafter, unless the Board has reason to believe that disclosure of the information could reasonably be expected to cause substantial competitive harm; or

(6) The designation made by the submitter in accordance with these regulations appears obviously frivolous; in such case, the Board must provide the submitter only with written notice of any administrative disclosure determination within a reasonable number of days prior to the specified disclosure date.

PART 1002—FEES

Sec.

1002.1 Fees for records search, review, copying, certification, and related services.

1002.2 Filing fees.

1002.3 Updating user fees.

AUTHORITY: 5 U.S.C. 552(a)(4)(A) and 553; 31 U.S.C. 9701; and 49 U.S.C. 721(a).

§ 1002.1 Fees for records search, review, copying, certification, and related services.

Certifications and copies of such tariffs, reports and other public records and documents on file with the Surface Transportation Board as may be practicable to furnish, as well as searches and copying of records not considered public under the Freedom of Information Act (5 U.S.C. 552), will be furnished on the following basis:

(a) Certificate of the Secretary, \$12.00.

(b) Service involved in examination of tariffs or schedules for preparation of certified copies of tariffs or schedules or extracts therefrom at the rate of \$30.00 per hour.

(c) Service involved in checking records to be certified to determine authenticity, including clerical work, etc., incidental thereto, at the rate of \$21.00 per hour.

(d) Photocopies of tariffs, reports, and other public documents, at the rate of \$1.00 per letter or legal size exposure. A minimum charge of \$5.00 will be made for this service.

(e) The fee for search and copying services requiring ADP processing are as follows:

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(1) A fee of \$53.00 per hour for professional staff time will be charged when it is required to fulfill a request for ADP data.

(2) The fee for port minute time for the search will be set at the current rate set forth in the Board's contract with its time sharing computer contractor. Information on those charges can be obtained from the Chief, Section of Systems Services, Surface Transportation Board, Washington, DC 20423.

(3) Printing shall be charged at the rate of \$.10 per page of computer generated output with a minimum charge of \$.25. A charge of \$30 per reel of magnetic tape will be made if the tape is to be permanently retained by the requestor.

(f) The fees for search, review and copying services for records not considered public under the Freedom of Information Act are as follows:

(1) When records are sought for commercial use, requesters will be assessed the full and reasonable direct costs of document search, review and duplication. A "commercial use" request refers to a request from or on behalf of one who seeks information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request is made.

(2) When records are not sought for commercial use and a request is made by an educational or noncommercial scientific institution, requesters will be assessed only for the cost of duplication (excluding charges for the first 100 pages). The term "Educational Institution" refers to a preschool, a public or private elementary or secondary school, an institution of graduate higher education, an institution of undergraduate higher education, an institu-

tion of professional education, and an institution of vocational education, which operates a program of scholarly research. The term "noncommercial scientific institution" refers to an institution that is not operated on a "commercial" basis and that is operated solely for the purpose of conducting scientific research the results of which are not intended to promote any particular product or industry. They must show that their request is authorized by and under the auspices of a qualifying institution and the records are not sought for a commercial use but, instead, are in furtherance of scholarly or scientific research.

(3) Requesters who are representatives of the news media (persons actively gathering news for an entity that is organized and operated to publish or broadcast news to the public) will be assessed only for the cost of duplication (excluding charges for the first 100 pages) if they can show that their request is not made for a commercial use. A request for records supporting the news dissemination function of the requester shall not be considered a request for a commercial use.

(4) All other requesters will be assessed fees which recover the full, reasonable direct cost of searching for and duplicating records that are responsive to the request (excluding charges for the first 100 pages of duplication and the first two hours of search time).

(5) All requesters must reasonably describe the records sought.

(6) The search and review hourly fees will be based upon employee grade levels in order to recoup the full, allowable direct costs attributable to their performance of these functions. They are as follows:

Grade	Rate	Grade	Rate
GS-1	\$8.93	GS-9	\$20.86
GS-2	9.72	GS-10	22.97
GS-3	10.96	GS-11	25.23
GS-4	12.30	GS-12	30.24
GS-5	13.76	GS-13	35.96
GS-6	15.34	GS-14	42.50
GS-7	17.05	GS-15 and	49.99
GS-8	18.88	over	

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(7) The fee for photocopies shall be \$.60 per letter or legal size exposure with a minimum charge of \$3.00.

(8) The fee charged for ADP data is set forth in paragraph (e) of this section.

(9) If the cost of collecting any fee would be equal to or greater than the fee itself, it will not be assessed.

(10) A fee may be charged for searches which are not productive and for searches for records or those parts of records which subsequently are determined to be exempt from disclosure.

(11) Interest charges will be assessed on any unpaid bill starting on the date specified in the bill, at the rate prescribed in 31 U.S.C. 3717 and will accrue from the date of the billing. The Debt Collection Act, 5 U.S.C. 5514 (1982), including disclosure to the consumer reporting agencies and the use of collection agencies, as prescribed in the Board's Debt Collection Regulations in 49 CFR part 1018, will be utilized to encourage payment where appropriate.

(12) If search charges are likely to exceed \$25, the requester will be notified of the estimated fees unless requester willingness to pay whatever fee is assessed has been provided in advance. The administrative time limits prescribed in 5 U.S.C. 552(a)(6) will not begin until after the requester agrees in writing to accept the prospective charges.

(13) An advance payment (before work is commenced or continued on a request) may be required if the charges are likely to exceed \$250. Requesters who have previously failed to pay a fee charged in timely fashion (i.e. within 30 days of the date of billing) may be required first to pay this amount plus any applicable interest (or demonstrate that the fee has been paid) and then make an advance payment of the full amount of the estimated fee before the new or pending request is processed. The administrative time limits prescribed in 5 U.S.C. 552(a)(6) also will not begin until after a requester has complied with this provision.

(14) Documents shall be furnished without any charge or at a charge reduced below the fees set forth above if disclosure of the information is in the public interest because it is likely to contribute significantly to public un-

derstanding of the operations or activities of the government and is not primarily in the commercial interest of the requester. The following six factors will be employed in determining when such fees shall be waived or reduced:

(i) The subject of the request: Whether the subject of the requester records concerns "the operations or activities of the government";

(ii) The informative value of the information to be disclosed: Whether the disclosure is "likely to contribute" to an understanding of government operations or activities;

(iii) The contribution to an understanding of the subject by the general public likely to result from disclosure: Whether disclosure of the requested information will contribute to "public understanding";

(iv) The significance of the contribution to public understanding: Whether the disclosure is likely to contribute "significantly" to public understanding of government operations or activities;

(v) The existence and magnitude of a commercial interest: Whether the requester has a commercial interest that would be furthered by the requested disclosure; and, if so

(vi) The primary interest in disclosure: Whether the magnitude of the identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is "primarily in the commercial interest of the requester."

This fee waiver and reduction provision will be implemented in accordance with guidelines issued by the U.S. Department of Justice on April 2, 1987 and entitled "New FOIA Fee Waiver Policy Guidance." A copy of these guidelines may be inspected or obtained from the Surface Transportation Board's Freedom of Information Office, Washington, DC 20423.

(g) Payment for services described in paragraphs (a) through (f) of this section may be made in cash or by postal money order or check payable to the order of the Secretary, Surface Transportation Board, Washington, D.C., and forwarded to his office.

(h) Transcript of testimony and of oral argument, or extracts therefrom,

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may be purchased by the public from the Board's official reporter. For information regarding the official reporter, contact the Secretary, Surface Transportation Board, Washington, DC 20423.

[32 FR 20010, Dec. 20, 1967]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 1002.1, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

§ 1002.2 Filing fees.

(a) *Manner of payment.* (1) Except as specified in this section, all filing fees will be payable at the time and place the application, petition, notice, tariff, contract summary, or other document is tendered for filing. The filing fee for tariffs, including schedules, and contracts summaries including supplements (Item 78) may be charged to tariff filing fee accounts established by the Board in accordance with paragraph (a)(2) of this section.

(2) *Billing account procedure.* Form STB-1032 must be submitted to the Board's Section of Financial Services to establish a tariff filing fee account or an insurance service fee account.

(i) Each account will have a specific billing date within each month and a billing cycle. The billing date is the date that the bill is prepared and printed. The billing cycle is the period between the billing date in one month and the billing date in the next month. A bill for each account which has activity or an unpaid balance during the billing cycle will be sent on the billing date each month. Payment will be due 20 days from the billing date. Payments received before the next billing date are applied to the account. Interest will accrue in accordance with 49 CFR 1018.30.

(ii) The Debt Collection Act of 1982, including disclosure to the consumer reporting agencies and the use of collection agencies, as prescribed in the Board's Debt Collection Regulations in 49 CFR part 1018, will be utilized to encourage payment where appropriate.

(iii) An account holder who files a petition in bankruptcy or who is the subject of a bankruptcy proceeding must provide the following information to the Chief, Section of Financial Serv-

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ices, Surface Transportation Board, Washington, DC:

(A) The filing date of the bankruptcy petition;

(B) The court in which the bankruptcy petition was filed;

(C) The type of bankruptcy proceeding;

(D) The name, address, and telephone number of its representative in the bankruptcy proceeding; and

(E) The name, address, and telephone number of the bankruptcy trustee, if one has been appointed.

(3) Fees will be payable to the Secretary, Surface Transportation Board, by check payable in United States currency drawn upon funds deposited in a United States or foreign bank or other financial institution, money order payable in United States currency, or by credit card.

(b) Any filing, other than a tariff filing, that is not accompanied by the appropriate filing fee is deficient except for filings that satisfy the deferred payment procedures in paragraph (a) of this section. However, the Board may find that a tariff which is submitted without the appropriate filing fee is deficient and reject the tariff filing, if the filer repeatedly fails to submit the appropriate filing fee after the Board has advised the filer of the proper filing fee and tariff filing procedures.

(c) *Fees not refundable.* Fees will be assessed for every filing in the type of proceeding listed in the schedule of fees contained in paragraph (f) of this section, subject to the exceptions contained in paragraphs (d) and (e) of this section. After the application, petition, notice, tariff, contract, or other document has been accepted for filing by the Board, the filing fee will not be refunded, regardless of whether the application, petition, notice, tariff, contract, or other document is granted or approved, denied, rejected before docketing, dismissed, or withdrawn. If an individual exemption proceeding becomes a matter of general applicability and is handled through the rulemaking process, the Board will refund the filing fee.

(d) *Related or consolidated proceedings.* (1)(i) Except as provided for in paragraph (d)(1)(ii) of this section, separate

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fees need not be paid for related applications filed by the same applicant that would be the subject of one proceeding.

(ii) In proceedings filed under the rail consolidation procedures at 49 CFR part 1180, the applicable filing fee must be paid for each proceeding submitted concurrently with the primary application. The fee for each type of proceeding is set forth in the fee schedule contained in paragraph (f) of this section.

(2) A separate fee will be assessed for the filing of an application for temporary authority to operate a motor carrier of passengers as provided for in paragraph (f)(5) of this section regardless of whether such application is related to a corresponding transfer proceeding as provided for in paragraph (f)(2) of this section.

(3) The Board may reject concurrently filed applications, petitions, notices, contracts, or other documents asserted to be related and refund the filing fee if, in its judgment, they embrace two or more severable matters which should be the subject of separate proceedings.

(e) *Waiver or reduction of filing fees.* It is the general policy of the Board not

to waive or reduce filing fees except as described below:

(1) Filing fees are waived for an application or other proceeding which is filed by a federal government agency, or a state or local government entity. For purposes of this section the phrases “federal government agency” or “government entity” do not include a quasi-governmental corporation or government subsidized transportation company.

(2) In extraordinary situations the Board will accept requests for waivers or fee reductions in accordance with the following procedure:

(i) *When to request.* At the time that a filing is submitted to the Board the applicant may request a waiver or reduction of the fee prescribed in this part. Such request should be addressed to the Secretary.

(ii) *Basis.* The applicant must show the waiver or reduction of the fee is in the best interest of the public, or that payment of the fee would impose an undue hardship upon the requestor.

(iii) *Board action.* The Secretary will notify the applicant of the decision to grant or deny the request for waiver or reduction.

(f) *Schedule of filing fees.*

Type of proceeding	Fee
PART I: Non-Rail Applications or Proceedings to Enter Upon a Particular Financial Transaction or Joint Arrangement:	
(1) An application for the pooling or division of traffic	\$3,200
(2) An application involving the purchase, lease, consolidation, merger, or acquisition of control of a motor carrier of passengers under 49 U.S.C. 14303	1,500
(3) An application for approval of a non-rail rate association agreement. 49 U.S.C. 13703.	20,400
(4) An application for approval of an amendment to a non-rail rate association agreement:	
(i) Significant amendment	3,400
(ii) Minor amendment	70
(5) An application for temporary authority to operate a motor carrier of passengers. 49 U.S.C. 14303(i)	350
(6) A notice of exemption for transaction within a motor passenger corporate family that does not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with motor passenger carriers outside the corporate family	1,300
(7)–(10) [Reserved]	
PART II: Rail Licensing Proceedings other than Abandonment or Discontinuance Proceedings:	
(11) (i) An application for a certificate authorizing the extension, acquisition, or operation of lines of railroad. 49 U.S.C. 10901	5,300
(ii) Notice of exemption under 49 CFR 1150.31–1150.35	1,300
(iii) Petition for exemption under 49 U.S.C. 10502	9,300
(12) (i) An application involving the construction of a rail line	55,000
(ii) A notice of exemption involving construction of a rail line under 49 CFR 1150.36	1,300
(iii) A petition for exemption under 49 U.S.C. 10502 involving construction of a rail line	55,000
(13) A Feeder Line Development Program application filed under 49 U.S.C. 10907(b)(1)(A)(i) or 10907(b)(1)(A)(ii)	2,600
(14) (i) An application of a class II or class III carrier to acquire an extended or additional rail line under 49 U.S.C. 10902.	4,600
(ii) Notice of exemption under 49 CFR 1150.41–1150.45	1,300
(iii) Petition for exemption under 49 U.S.C. 10502 relating to an exemption from the provisions of 49 U.S.C. 10902	4,900
(15) A notice of a modified certificate of public convenience and necessity under 49 CFR 1150.21–1150.24	1,200
(16)–(20) [Reserved]	
PART III: Rail Abandonment or Discontinuance of Transportation Services Proceedings:	

Type of proceeding	Fee
(21)(i) An application for authority to abandon all or a portion of a line of railroad or discontinue operation thereof filed by a railroad (except applications filed by Consolidated Rail Corporation pursuant to the Northeast Rail Service Act [Subtitle E of Title XI of Pub. L. 97–35], bankrupt railroads, or exempt abandonments)	16,300
(ii) Notice of an exempt abandonment or discontinuance under 49 CFR 1152.50	2,700
(iii) A petition for exemption under 49 U.S.C. 10502	4,700
(22) An application for authority to abandon all or a portion of a line of a railroad or operation thereof filed by Consolidated Rail Corporation pursuant to Northeast Rail Service Act	350
(23) Abandonments filed by bankrupt railroads	1,400
(24) A request for waiver of filing requirements for abandonment application proceedings	1,300
(25) An offer of financial assistance under 49 U.S.C. 10904 relating to the purchase of or subsidy for a rail line proposed for abandonment	1,100
(26) A request to set terms and conditions for the sale of or subsidy for a rail line proposed to be abandoned	16,700
(27) A request for a trail use condition in an abandonment proceeding under 16 U.S.C. 1247(d)	150
(28)–(35) [Reserved]	
PART IV: Rail Applications to Enter Upon a Particular Financial Transaction or Joint Arrangement:	
(36) An application for use of terminal facilities or other applications under 49 CFR 11102	14,000
(37) An application for the pooling or division of traffic. 49 U.S.C. 11322	7,500
(38) An application for two or more carriers to consolidate or merge their properties or franchises (or a part thereof) into one corporation for ownership, management, and operation of the properties previously in separate ownership. 49 U.S.C. 11324:	
(i) Major transaction	1,099,800
(ii) Significant transaction	219,900
(iii) Minor transaction	5,800
(iv) Notice of an exempt transaction under 49 CFR 1180.2(d)	1,300
(v) Responsive application	5,800
(vi) Petition for exemption under 49 U.S.C. 10502	6,900
(39) An application of a non-carrier to acquire control of two or more carriers through ownership of stock or otherwise. 49 U.S.C. 11324:	
(i) Major transaction	1,099,800
(ii) Significant transaction	219,900
(iii) Minor transaction	5,800
(iv) A notice of an exempt transaction under 49 CFR 1180.2(d)	1,000
(v) Responsive application	5,800
(vi) Petition for exemption under 49 U.S.C. 10502	6,900
(40) An application to acquire trackage rights over, joint ownership in, or joint use of any railroad lines owned and operated by any other carrier and terminals incidental thereto. 49 U.S.C. 11324:	
(i) Major transaction	1,099,800
(ii) Significant transaction	219,900
(iii) Minor transaction	5,800
(iv) Notice of an exempt transaction under 49 CFR 1180.2(d)	900
(v) Responsive application	5,800
(vi) Petition for exemption under 49 U.S.C. 10502	6,900
(41) An application of a carrier or carriers to purchase, lease, or contract to operate the properties of another, or to acquire control of another by purchase of stock or otherwise. 49 U.S.C. 11324:	
(i) Major transaction	1,099,800
(ii) Significant transaction	219,900
(iii) Minor transaction	5,800
(iv) Notice of an exempt transaction under 49 CFR 1180.2(d)	1,000
(v) Responsive application	5,800
(vi) Petition for exemption under 49 U.S.C. 10502	4,900
(42) Notice of a joint project involving relocation of a rail line under 49 CFR 1180.2(d)(5)	1,800
(43) An application for approval of a rail rate association agreement. 49 U.S.C. 10706	51,400
(44) An application for approval of an amendment to a rail rate association agreement. 49 U.S.C. 10706:	
(i) Significant amendment	9,500
(ii) Minor amendment	70
(45) An application for authority to hold a position as officer or director under 49 U.S.C. 11328	550
(46) A petition for exemption under 49 U.S.C. 10502 (other than a rulemaking) filed by rail carrier not otherwise covered	5,900
(47) National Railroad Passenger Corporation (Amtrak) conveyance proceeding under 45 U.S.C. 562	150
(48) National Railroad Passenger Corporation (Amtrak) compensation proceeding under Section 402(a) of the Rail Passenger Service Act	150
(49)–(55) [Reserved]	
PART V: Formal Proceedings:	
(56) A formal complaint alleging unlawful rates or practices of carriers:	
(i) A formal complaint filed under the coal rate guidelines (Stand-Alone Cost Methodology) alleging unlawful rates and/or practices of rail carriers under 49 U.S.C. 10704(c)(1)	61,400
(ii) All other formal complaints (except competitive access complaints)	6,000
(iii) Competitive access complaints	150
(57) A complaint seeking or a petition requesting institution of an investigation seeking the prescription or division of joint rates or charges. 49 U.S.C. 10705	6,500
(58) A petition for declaratory order:	
(i) A petition for declaratory order involving a dispute over an existing rate or practice which is comparable to a complaint proceeding	1,000

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Type of proceeding	Fee
(ii) All other petitions for declaratory order	1,400
(59) An application for shipper antitrust immunity, 49 U.S.C. 10706(a)(5)(A)	5,200
(60) Labor arbitration proceedings	150
(61) Appeals to a Surface Transportation Board decision and petitions to revoke an exemption pursuant to 49 U.S.C. 10502(d)	150
(62) Motor carrier undercharge proceedings	150
(63)–(75) [Reserved]	
PART VI: Informal Proceedings:	
(76) An application for authority to establish released value rates or ratings for motor carriers and freight forwarders of household goods under 49 U.S.C. 14706	900
(77) An application for special permission for short notice or the waiver of other tariff publishing requirements	90
(78) (i) The filing of tariffs, including supplements, or contract summaries	1 per page (\$18 minimum charge.)
(ii) Tariffs transmitted by fax	1 per page
(79) Special docket applications from rail and water carriers:	
(i) Applications involving \$25,000 or less	50
(ii) Applications involving over \$25,000	100
(80) Informal complaint about rail rate applications	450
(81) Tariff reconciliation petitions from motor common carriers:	
(i) Petitions involving \$25,000 or less	50
(ii) Petitions involving over \$25,000	100
(82) Request for a determination of the applicability or reasonableness of motor carrier rates under 49 U.S.C. 13710(a)(2) and (3)	150
(83) Filing of documents for recordation, 49 U.S.C. 11301 and 49 CFR 1177.3(c).	30 per document
(84) Informal opinions about rate applications (all modes)	150
(85) A railroad accounting interpretation	800
(86) An operational interpretation	1,100
(87) Arbitration of Certain Disputes Subject to the Statutory Jurisdiction of the Surface Transportation Board under 49 CFR 1108:	
(i) Complaint	75
(ii) Answer (per defendant), Unless Declining to Submit to Any Arbitration	75
(iii) Third Party Complaint	75
(iv) Third Party Answer (per defendant), Unless Declining to Submit to Any Arbitration	75
(v) Appeals of Arbitration Decisions or Petitions to Modify or Vacate an Arbitration Award	150
(88)–(95) [Reserved]	
PART VII: Services:	
(96) Messenger delivery of decision to a railroad carrier's Washington, DC, agent	23 per delivery
(97) Request for service or pleading list for proceedings	18 per list
(98) (i) Processing the paperwork related to a request for the Carload Waybill Sample to be used in a Surface Transportation Board or State proceeding that does not require a Federal Register notice	200
(ii) Processing the paperwork related to a request for Carload Waybill Sample to be used for reasons other than a Surface Transportation Board or State proceeding that requires a Federal Register notice	450
(99) (i) Application fee for the Surface Transportation Board's Practitioners' Exam	100
(ii) Practitioners' Exam Information Package	25
(100) Uniform Railroad Costing System (URCS) software and information:	
(i) Initial PC version URCS Phase III software program and manual	50
(ii) Updated URCS PC version Phase III cost file, if computer disk provided by requestor	10
(iii) Updated URCS PC version Phase III cost file, if computer disk provided by the Board	20
(iv) Public requests for <i>Source Codes</i> to the PC version URCS Phase III	500
(v) PC version or mainframe version URCS Phase II	400
(vi) PC version or mainframe version Updated Phase II databases	50
(vii) Public requests for <i>Source Codes</i> to PC version URCS Phase II	1,500
(101) Carload Waybill Sample data on recordable compact disk (R-CD):	
(i) Requests for Public Use File on R-CD—First Year	450
(ii) Requests for Public Use File on R-CD Each Additional Year	150
(iii) Waybill—Surface Transportation Board or State proceedings on R-CD—First Year	650
(iv) Waybill—Surface Transportation Board or State proceedings on R-CD—Second Year on same R-CD	450
(v) Waybill—Surface Transportation Board of State proceeding on R-CD—Second Year on different R-CD	500
(vi) User Guide for latest available Carload Waybill Sample	50

(g) *Returned check policy.* (1) If a check submitted to the Board for a filing or service fee is dishonored by a bank or financial institution on which

it is drawn, the Board will notify the person who submitted the check that:

(i) All work will be suspended on the filing or proceeding, other than a tariff filing, until the check is made good;

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(ii) A returned check charge of \$6.00 and any bank charges incurred by the Board as a result of the dishonored check must be submitted with the filing fee which is outstanding; and

(iii) If payment is not made within the time specified by the Board, the proceeding will be dismissed or the filing may be rejected.

(2) If a person repeatedly submits dishonored checks to the Board for filing fees, the Board may notify the person that all future filing fees must be submitted in the form of a certified or cashier's check or a money order.

[49 FR 18492, May 1, 1984]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §1002.2, see the List of CFR Sections affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

§ 1002.3 Updating user fees.

(a) *Update.* Each fee established in this part shall be updated in accordance with this section at least once a year. However, any fee may be updated more than once a year, if the Board finds that an additional update is necessary.

(b) *Publication and effective dates.* Updated fees shall be published in the FEDERAL REGISTER and shall become effective 30 days after publication.

(c) *Payment of fees.* Any person submitting a filing for which a fee is established shall pay the fee in effect at the time of the filing.

(d) *Method of updating fees.* Each fee shall be updated by updating the cost components comprising the fee. Cost components shall be updated as follows:

(1) Direct labor costs shall be updated by multiplying base level direct labor costs by percentage changes in average wages and salaries of Board employees. Base level direct labor costs are direct labor costs determined by the cost study set forth in *Revision of Fees For Services*, 1 I.C.C.2d 60 (1984) or subsequent cost studies. The base period for measuring changes shall be April 1984.

(2) Operations overhead shall be developed each year on the basis of current relationships existing on a weighted basis, for indirect labor applicable to the first supervisory work centers directly associated with user fee activ-

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ity. Actual updating of operations overhead will be accomplished by applying the current percentage factor to updated direct labor, including current governmental overhead costs.

(3)(i) Office general and administrative costs shall be developed each year on the basis of current level costs, i.e., dividing actual office general and administrative costs for the current fiscal year by total office costs for the Offices directly associated with user fee activity. Actual updating of office general and administrative costs will be accomplished by applying the current percentage factor to updated direct labor, including current governmental overhead and current operations overhead costs.

(ii) Board general and administrative costs shall be developed each year on the basis of current level costs; i.e., dividing actual Board general and administrative costs for the current fiscal year by total agency expenses for the current fiscal year. Actual updating of Board general and administrative costs will be accomplished by applying the current percentage factor to updated direct labor, including current governmental overhead, operations overhead and office general and administrative costs.

(4) Publication costs shall be adjusted on the basis of known changes in the costs applicable to publication of material in the FEDERAL REGISTER.

(e) *Rounding of updated fees.* Updated fees shall be rounded in the following manner: (1) Fees between \$1-\$30 will be rounded to the nearest \$1; (2) fees between \$30-\$100 will be rounded to the nearest \$10; (3) fees between \$100-\$999 will be rounded to the nearest \$50; and (4) fees above \$1,000 will be rounded to the nearest \$100. (This rounding procedure excludes copying, printing and search fees.)

[49 FR 18494, May 1, 1984, as amended at 52 FR 46483, Dec. 8, 1987; 59 FR 44644, Aug. 30, 1994; 61 FR 42194, Aug. 14, 1996]

PART 1003—FORMS

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